

Arkansas Insurance Department

Mike Huckabee
Governor



Julie Benafield Bowman
Commissioner

August 19, 2005

BULLETIN NO. 6-2005

TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, HOSPITAL AND MEDICAL SERVICE CORPORATIONS, TRADE ASSOCIATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: a) ACT 506 OF 2005, EFFECTIVE 3-2-2005: AMENDED LAW ON SECURITY DEPOSITS OF INSURERS, AND
b) 2005 UPDATE TO DEPARTMENT BULLETIN 5-2002 AND 5A-2002, "STATUTORY DEPOSIT FUNDS - PROCEDURES FOR RELEASE OF ASSETS"

The Arkansas Insurance Department ("Department") is issuing this 2005 Bulletin in order to update licensees as to changes affecting statutory deposits, as amended by Act 506 of 2005 in the captioned areas. It is also to alert you that the Act became effective on March 2, 2005, by emergency clause.

CHANGES IN DEPOSIT REQUIREMENTS - Ark. Code Ann §23-63-206 exempts from deposit requirements all new foreign insurer or alien insurer applicants for first-time licenses (Certificates of Authority), and Act 506 of 2005 clarifies that the exemption is to be granted upon presentation of proof sufficient to demonstrate the adequacy of the domiciliary jurisdiction's deposit held for the applicant company, and adequacy of that jurisdiction's deposit laws.

Ark. Code Ann. §23-63-206 grants permission for currently foreign or alien insurers to obtain release of Arkansas statutory deposits. Release is to allow the Arkansas deposit to be retained by the company, if the deposit for Arkansas policyholders and creditors is sufficient in the foreign or alien company's state of domicile, Canada, Mexico, or its port-of-entry state. Release is dependent upon verification of a deposit held in the state or country of domicile in an amount adequate to cover Arkansas policyholders and creditors, i.e., sufficient to cover the statutory amount under §23-63-206 for the lines of insurance the company transacts in Arkansas. The Department also has to verify that the foreign company's domiciliary state, Canada, Mexico, or port-of-entry state deposit agreement covers both policyholders and creditors. The Department will retain foreign company deposits for insurers with domiciliary states, Canada, Mexico, or port-of-entry states whose insurer deposit laws do not protect creditors.

RELEASE PROCEDURES - FOREIGN AND ALIEN INSURERS:

1. Request to release the deposit must be on company letterhead;
2. A current domiciliary state, Canada, Mexico, or home port-of-entry Certificate of Deposit (certified and detailing information on the adequacy of that foreign deposit and taken from [or updated from] information filed in the Company's most recent Annual Statement) must accompany the request. The Certificate or state deposit code must state that the deposit is held for the benefit of **ALL POLICYHOLDERS AND CREDITORS**;
3. A check for \$75.00 per company payable to the State Insurance Department Trust Fund must accompany the request; and
4. A **notarized** affidavit must be presented from a company official, stating that the deposit posted in the Company's state of domicile, Canada, Mexico, or port-of-entry state is held for the benefit of **ALL POLICYHOLDERS AND CREDITORS**, and will cover or include

the State of Arkansas. Under §23-63-206, the Department will then review the adequacy of the filing, and make a decision to retain or release the deposit to the insurance company. **Please file one (1) affidavit per company.**

5. The 2005 law on releases added that applicants must agree to maintain deposits in the state or country of domicile at all times adequate to cover Arkansas deposit obligations. Those deposits must track Certificate of Authority lines of insurance in Arkansas as reflected on the Uniform Certificate of Authority application (UCAA). The applicant must file with the Department an updated Certificate of Deposit issued by the insurance regulator in the state of domicile, Canada, Mexico, or port-of-entry state.
6. The Act 506 changes to Ark. Code Ann. §23-63-909(b) state that the Commissioner, under procedures she shall prescribe, may release to the insurer any part of the special additional four percent (4%) accident and health deposit formerly required under §23-63-206.
7. Per Act 506, and for good cause, the Commissioner may in writing exempt insurers from filing replacement deposits for any line of insurance, including, but not limited to, statutory deposits for discontinued lines of insurance.
8. Requests for release may be mailed or delivered to this Department to the address listed **(no electronic mail or faxes please)**. No deposit will be considered for release until all fees owed from previous deposit transactions have been paid to the Securities Administrator in full. The releases will be processed in the order received as reflected by the Department's "received date" stamp. Overdue company fees or filings due other Divisions of this Department may be collected before the final deposit release.
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Questions concerning this Bulletin should be directed to the Securities Administrator, Finance Division, at (501) 371-2679; if busy, dial (501) 371-2665. This Bulletin is intended to and shall rescind former deposit Bulletins:

- 1) Bulletin 12-2001, "STATUTORY DEPOSIT FUNDS – PROCEDURES FOR RELEASE OF ASSETS", dated December 1, 2001; and
- 2) Bulletin 5-2002, "UPDATE TO DEPARTMENT BULLETIN 12-2001: STATUTORY DEPOSIT FUNDS – PROCEDURES FOR RELEASE OF ASSETS", dated April 8, 2002; and
- 3) Bulletin 5A-2002, "UPDATE TO DEPARTMENT BULLETIN 12-2001: STATUTORY DEPOSIT FUNDS – PROCEDURES FOR RELEASE OF ASSETS", dated April 16, 2002.

(signed by Julie Benafield Bowman)

(August 19, 2005)

JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER

DATE